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PATENT

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K Davis  
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants : Weston et al.  
Serial No. : 09/698,903  
Filed : October 27, 2000  
For: : **MALE-STERILE BRASSICA PLANTS AND METHOD FOR  
PRODUCING SAME**  
Examiner : F. Moonan  
Unit : 1638

745 Fifth Avenue  
New York, New York 10151

I hereby certify that this correspondence is being deposited with  
the United States Postal Service as first class mail in an envelope  
addressed to: Assistant Commissioner for Patents, Washington,  
DC 20231, on May 6, 2002.

Marilyn Matthes Brogan, Reg. No. 31,223

Name of Applicant, Assignee or Registered Representative

Signature

May 6, 2002

Date of Signature

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**AMENDMENT AND RESPONSE TO OFFICE ACTION WITH REQUEST FOR  
WITHDRAWAL OF RESTRICTION REQUIREMENT**

Assistant Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

This is in response to the April 5, 2002 Office Action, which set a one month period for  
response, i.e., up to and including May 5, 2002. The Office Action required election from  
among:

**Group I:** Claims 23-28 and 33-34, drawn to a method of identifying a male-sterile  
transgenic *Brassica* plant, seed, or parts thereof, by probing immobilized  
transgenic plant nucleic acids by chemical hybridization with a DNA

fragment, or by PCR amplification of transgenic plant DNA templates, classified for example in class 800, subclass 303; and

**Group II:** Claims 29-32, drawn to PCR kits comprising at least two oligonucleotide primers, classified for example in class 536, subclass 24.3.

Group I, claims 23-28 and 33-34, is elected with traverse for further prosecution in this application. Applicants retain the right to file divisional applications drawn to non-elected subject matter. Reconsideration and withdrawal of the restriction requirement are respectfully requested in view of the remarks herein.

**AMENDMENT**

Without prejudice, without admission, without surrender of the subject matter, and without any intention of creating any estoppel as to equivalents, please amend the claims to read as follows:

**IN THE CLAIMS**

Please amend claims 23, 24 and 29 to read as follows:

Sub D  
23. (Amended) A method for identifying elite event MS-B2 in a transgenic rice plant, or cell or tissue thereof, or transgenic rice plant material, which method comprises detection of a MS-B2 specific region with a specific primer or probe which specifically recognizes the 5' flanking region in SEQ ID No. 8 or the 3' flanking region in SEQ ID No. 10 of MS-B2.

C  
24. (Amended) The method of claim 23, said method comprising amplifying a DNA fragment of between 160 and 200 bp from a nucleic acid present in said transgenic rice plant, or cell or tissue thereof, or transgenic rice plant material, using a polymerase chain reaction with at least two primers, one of which recognizes the 5' flanking region in SEQ ID No. 8 or 3' flanking region in SEQ ID No. 10 of MS-B2, the other which recognizes a sequence within the foreign DNA.

2 Sub E3  
29. (Amended) A kit for identifying elite event MS-B2 in a transgenic rice plant, or cell or tissue thereof, or transgenic rice plant material, said kit comprising at least one PCR primer,